

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:)	Case No. 14-31144
)	
Joel V Montano)	Hon. Jack B. Schmetterer
Cristeta Decena Montano)	
Debtors)	Chapter 13
)	
_____)	_____
)	
Joel V Montano)	Adv No. 15 A 000110
Cristeta Decena Montano)	
Plaintiffs)	Hon. Jack B. Schmetterer
)	
v.)	
)	
Springcastle Finance Funding Trust)	
Springleaf Mortgage Services, INC.)	
Defendants)	

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Pursuant to a Default Order and because the allegations in the Complaint have been taken as confessed against Springcastle Finance Funding Trust and Springleaf Mortgage Services, INC., the following findings of fact and conclusions of law are made and will be entered:

1. Plaintiffs are individuals residing at 3645 W 81st Pl., Chicago, IL, 60652
2. Springcastle Finance Funding Trust is a holder of mortgages.
3. Springleaf Mortgage Services INC. is a lender and/or servicer of mortgages.
4. Plaintiffs filed for relief under chapter 13 of the United States Bankruptcy Code on 8/25/2014 in the Northern District of Illinois, case number 14-31144.

5. This adversary proceeding arises under sections 502 and 506 of the United States Bankruptcy Code.

6. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 151, 157 and 1334 and this is a core proceeding under 28. U.S.C. § 157.

7. Plaintiffs are the owners of real estate located at 3645 W 81st Pl., Chicago, IL, 60652 described as follows:

Lot 18 (Except the west 5 feet thereof) and the west 10 feet of Lot 17 in Block 4 in Clarkdale, being a subdivision by George T. Potter of the south east ¼ of the northwest ¼ of section 35, township 38 north, range 13 east of the third principal meridian, in Cook County, Illinois.

Common Address: 3645 W 81st Pl., Chicago, IL, 60652

Parcel ID #: 19-35-120-078-0000

8. The fair market value of the real estate is \$150,000 pursuant to Exhibit A to the original adversary complaint.

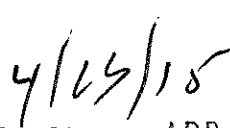
9. A first mortgage lien is currently held by Bank of America N.A. in the amount of \$191,155.54 pursuant to the claim that Bank of America N.A. filed in the underlying bankruptcy – claim number 12.

10. Under 11 U.S.C. §§ 506(a) and 506(d), Defendant's junior mortgage would be allowed a secured claim to the extent of the value of the estate's interest in the property securing the claim, and Defendant's lien is void to the extent it is not allowed a secured claim.

11. The amount owed on the first mortgage, \$191,155.54, exceeds the value of the above real estate, \$150,000.

12. Due to the junior mortgage lien, which is held by Defendant, being wholly unsecured, it should not be allowed as a secured claim, and the mortgage may be stripped off. See, Holloway v. U.S., 2001 WL 1249053 (N.D. Ill. Oct. 16, 2001); In re Waters, 276 B.R. 879 (N.D. Ill 2002); In re Pond, 252 F.3d 122 (2nd Cir. 2001); In re McDonald, 205 F.3d 606 (3rd Cir. 2000); In Re Bartee, 212 F.3d 277 (5th Cir. 2000); In Re Lane, 280 F.3d 663 (6th Cir. 2002); In re Zimmer, 313 F.3d 1220 (9th Cir. 2002); In re Tannter, 217 F.3d 1357 (11th Cir. 2000).

Signed: 
Jack B. Schmetterer

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